water privilege heretofore connected" with the mill property "to flow said premises to the same extent that" the former common owner had the right to flow the same. The plaintiff is owner of the said 40 acre tract. Defendant, the old mill dam having been destroyed, erected a new and higher one which had the effect of flooding most of the 40 acres. In an action by plaintiff to compel defendent to lower the dam to its former height the lower court refused to interfere with the defendant's flooding the 40 acres, on the ground that the clause above quoted gave the owners an unlimited right of flowage on the 40 acres. On appeal, *held* that the judgment should be reversed. *Beardslee* v. *Berlin Lt. & Pr. Co.* (N. Y. 1912) 100 N. E. 434.

Defendant claimed that under the deed of July 16, 1870, the mill owners had acquired an unlimited right of flowage of the 40 acres. Plaintiff conceded that defendant as owner of the mill property could flood the 40 acres to the same extent as the 40 acres were apparently burdened when owned by a common owner, on the theory evidently that such right went with the quasi-dominant estate upon severance of same from the quasi-servient, but insisted that the deed of July 16, 1870 had not enlarged the mill property's easement, on the ground that the reservation or exception therein could not be effective to create any new rights in a third party. The court sustained the position taken by plaintiff and, it seems, correctly so. Where the owner of property has been in the habit of using quasi-easements of an apparent and continuous character over one part of his property for the benefit of the other part, and makes simultaneous conveyances of the quasi-dominant and quasi-servient estates to different persons, the respective alienees, in the absence of express stipulation, take the land burdened or benefited as it was at the time of the conveyance. *Phillips* v. *Low,* L. R. (1892) 1 Ch. 47; *Swansborough* v. *Coventry,* 9 Bing. 305; *Sanford* v. *Porter,* 34 Wash. L. Rep. 259; *Scott* v. *Moore,* 98 Va. 668; *Gorton-Pew Fisheries Co.* v. *Tolman,* 210 Mass. 402, 38 L. R. A. N. S. 882. It is elementary that a reservation to a stranger not a party to the conveyance is void. *Wickham* v. *Hawker,* 7 M. & W. 63; *Haverhill Sav. Bank* v. *Griffin,* 184 Mass. 419; *Littlefield* v. *Mott,* 14 R. I. 288. Where in a conveyance of land the grantor describes it as subject to an incumbrance in a third person, such provision in the deed saves the grantor from an action on his covenants, for the reason that the covenants apply *not* to the land *without* an incumbrance, but to the land *subject* to an incumbrance. BREWSTER, CONVEYANCING, § 204; *Edwards* v. *Clark,* 83 Mich. 246; *Flynn* v. *Bourneuf,* 143 Mass. 277; *Long* v. *Moler,* 5 Ohio St. 272; *Van Wagner* v. *Van Nostrand,* 19 Iowa 422.

ELECTIONS—VOTING MACHINES.—A petition was filed for a writ of mandamus against the Board of Election Commissioners to require them to furnish ballots and ballot boxes in accordance with the ballot law, on the ground that the act providing for the use of voting machines at elections was unstitutional. *Held,* for the reasons stated in the case of *Lynch* v. *Malley, infra.* that the law providing for these voting machines was consistent with the Illinois constitution. *People ex rel Hull et al* v. *Taylor et al,* (Ill. 1913) 100 N. E. 534.

The constitutionality of the Illinois statute was first raised in the case of *Lynch* v. *Malley, et al,* 215 Ill. 574, 74 N. E. 723, 2 Ann. Cases 837, where the court held the law valid. In construing the constitutional clause "all votes shall be by ballot", the court said, "by ballot means that the voting shall be secret as contradistinguished from that showing hands or viva voce voting." The court also considered the expediency of voting machines relative to the great increase in population. Apparently the first case to consider the validity of the voting machine law was *Re McTammany Voting Machine,* 19 R. I. 739, 36 Atl. 716, 36 L. R. A. 547, where it was held consistent with the constitutional provision that voting shall be by ballot. That case was followed by *McTammany Voting Machine,* 23 R. I. 630, 50 Atl. 265. The view held by these cases represents the weight of authority. "A statute permitting the use of the voting machine, which assures secrecy, free choice of candidates and a correct record of the vote, is not contrary to the constitutional provision that all votes shall be given by ballot. *People ex rel Detroit* v. *Inspectors of Election,* 139 Mich. 548, 102 N. W. 1029, 69 L. R. A. 184, 111 Am. St. Rep. 430; *U. S. Standard Voting Machine Co.* v. *Hobson,* 132 Iowa, 38, 109 N. W. 458. "Any method substantially in accordance with the spirit of the constitution, which gives an effective exercise of an elective franchise, that method can not be held in violation of the constitution because not in accord with its letter", thus upholding the validity of voting machines. *Elwell* v. *Comstock,* 99 Minn. 261, 109 N. W. 698, 7 L. R. A. N. S. 621; *Helme* v. *Election Commissioners,* 149 Mich. 390, 113 N. W. 6, 119 Am. St. Rep. 691. Congress has authorized the use of voting machines in federal elections. 30 U. S. STAT. AT L. 836, 2 FED. STATS. Ann. 212. But there is respectable authority against the constitutionality of the voting machine. In *Opinion of Justices,* 178 Mass. 605, 60 N. E. 129, 54 L. R. A. 430, a voting machine statute was held consistent with the constitutional provision that representatives were to be chosen by written vote, but this opinion was expressly repudiated in *Nicholas* v. *Election Commissioners,* 196 Mass. 410, 82 N. E. 50, and the voting machine statute was declared unconstitutional. In *Re Newark School Board,* (New Jersey, 1907,) 70 Atl. 881, there is dicta to the same effect. Perhaps the leading case holding the voting machine unconstitutional is *State ex rel Karlinger* v. *Supervisors of Election,* 80 Oh. St. 471, 89 N. E. 33, affirmed in *State ex rel Weinberger* v. *Miller,* (Oh. 1912) 99 N. E. 1078. The court said, "By ballot is meant a printed or written expression of the voter's choice upon some material capable of receiving and reasonably retaining it, prepared or adopted by each individual voter and passed from his control into that of the election officer". But this case is criticised in 9 COL. L. REV. 732.

HUSBAND AND WIFE—SERVICES OF WIFE.—Plaintiff, a married woman, brought an action against the executor of one Mrs. Pawl, deceased, to recover for services as nurse, rendered during the last few months of her life. The deceased was a boarder in the home of plaintiff and her husband. There was no express promise to pay for the services as nurse. *Held,* the services come within the range of the plaintiff's "domestic duties", and therefore the